



**ATTORNEY GENERAL OF TEXAS**  
**FINANCIAL AND TAX LITIGATION DIVISION**

**COMPTROLLER OF PUBLIC ACCOUNTS**  
**CASE LIST AND SUMMARY OF ISSUES**

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## Franchise Tax

### ***Apache Corp. vs Compt., et al.***

Cause Number: D-1-GN-07003861 AG Case #: 072481518

Filed: 11/6/2007

Franchise Tax;

Claim Amount	Reporting Period
\$2,121,145.00	1998-1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff may make an impairment adjustment to its long-lived assets under the successful efforts accounting method and whether it may use a double declining balance method of depreciation.

Status: Answer filed.

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### ***AROC (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000882 AG Case #: 072445745

Filed: 3/23/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$241,435.17	01/01/01 - 12/31/02
\$114,245.78	01/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether debts of the Plaintiff are inter-company debts or equity infusions, causing the debts to be treated as equity and therefore taxable. Plaintiff claims its assets had been

collateralized to a third party lender in return for funding.

Status: Discovery in progress.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789 AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$559,579.09	1994 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Case placed on Dismissal docket for 03/28/07; Motion to Retain granted 12/23/08.

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***Exxon Mobil Corp. v. Combs, et al.***

Cause Number: D-1-GN-10-004036 AG Case #: 103237442

Filed: 11/16/2010

Franchise Tax; Refund

Claim Amount	Reporting Period
\$16,347,707.00	plus interest (2002 through 2004)

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Taylor, III, Jasper G.	Fulbright & Jaworski / Houston
Chadha, Jayash M.	

Issue: Whether the taxpayer is entitled to investment tax credits under subchapter Q (now

repealed) of Chapter 171. Whether the statute requires a 90-day "look-back" period for qualifying events.

Status: Answer filed.

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***Fairfield Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001289 AG Case #: 093131944

Filed: 4/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,557,040.47	2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Mann, Christopher S.	Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P / New Orleans, LA
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Issue: Whether the Comptroller incorrectly apportioned gross receipts from licensing seismic data.

Status: Answer filed.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-003289 AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,107,256.04	2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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White, John D.	Jones, Walker, Waechter, Poitevent, Carrère & Denégre, L.L.P. / The Woodlands
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Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise

tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Order consolidating with Fairfield Industries, Inc. v. Compt., et al., Cause No. D-1-GN-06-000797 entered 07/11/07. Inactive. Pending disposition of TGS-NOPEC case, Cause #D-1-GN-05-00637.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000797 AG Case #: 062296884

Filed: 3/7/2006

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$769,839.19	1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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White, John D.	Jones, Walker, Waechter, Poitevent, Carrère & Denégre, L.L.P. / The Woodlands
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Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Case consolidated into Fairfield Industries, Inc. v. Strayhorn, et al., Cause #GN503289.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002313 AG Case #: 082518937

Filed: 7/2/2008

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$262,066.00	2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Order granting Motion to Consolidate into Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-06-004636, entered 09/22/09.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004636 AG Case #: 062430582

Filed: 12/15/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$245,571.02	1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Order granting Motion to Consolidate with Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-08-002313, entered 09/22/09. Trial set for 12/05/11.

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***Keystone RV Company Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001284 AG Case #: 113263875

Filed: 4/29/2011

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$796,724.00	Report years 2003-2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H. Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus.

Whether warranty services are within the scope of P.L. 86-272.

Whether penalty should be waived.

Status: Answer filed.

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***Lone Star Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000065 AG Case #: 103172730

Filed: 1/7/2010

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$428,568.50	Report years 1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether taxpayer's taxable capital should be based on its historical cost without regard to applicable push-down adjustments.

Status: Discovery in progress.

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***Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000655 AG Case #: 062295894

Filed: 2/23/2006

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,862,261.31	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	



Issue: Whether Plaintiff may deduct from its surplus the pre-acquisition negative retained earnings of a subsidiary's subsidiary. Whether Plaintiff may write-down subsidiary's investments in subsidiaries. Whether the Comptroller correctly determined Plaintiff's original cost basis in its subsidiary.

Status: Discovery in progress.

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***Rent-A-Center, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001059 AG Case #: 113260954

Filed: 4/11/2011

Franchise Tax; Protest

Claim Amount      Reporting Period

\$1,162,191.64      Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Butcher, Daniel L.

Strasburger & Price / Dallas

Katz, Farley P.

Strasburger & Price / San Antonio

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b). Whether Plaintiff qualifies for the cost of goods sold deduction. Plaintiff also raises an equal protection clause challenge to: i) the tax rate, and ii) the cost of goods sold deduction.

Status: Answer filed.

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***Shell Trading Services Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003859 AG Case #: 093163046

Filed: 11/9/2009

Franchise Tax; Refund

Claim Amount      Reporting Period

\$1,416,829.00      2002-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Schmauch, Jason M.

Houston

Lowy, Peter A.

Masters, Paul H.

Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Grimsinger, William O.

Vasquez, Jr., Juan

Issue: Whether payments made to certain individuals were payments subject to the officer and director add back provision, notwithstanding taxpayer's contention that it was reimbursed for such salary payments by a third party.

Status: Answer filed.

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***Taco Bell Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-003637 AG Case #: 093159101

Filed: 10/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,273,294.00	1999 through 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether the Taxpayer, a foreign corporation, conducted business within Texas during the audit period. Whether the activities of a franchisee, performed on behalf of the Taxpayer, would be sufficient to establish a physical presence.

Status: Plaintiff's Motion for Summary Judgment filed. Set for 08/16/11.

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***Taylor & Hill, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004429 AG Case #: 113241889

Filed: 12/21/2010

Franchise Tax; Protest

Claim Amount	Reporting Period
\$145,010.00	Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

### *Opposing Counsel*

Martens, James F.                      Martens & Associates / Austin  
Seay, Michael B.  
Traphagan, Amanda M.

Issue: Whether Plaintiff qualifies for the cost of goods sold deduction. Whether Plaintiff's §171.101(d) election precludes post-audit use of the compensation deduction to calculate margin.

Status: Hearing on Cross-Motions for Summary Judgment set for 06/16/11. Trial held 06/28-29/11. Court ruled in favor of the Plaintiff, awaiting Final Judgment.

***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637      AG Case #: 052114220      Filed: 3/1/2005  
#03-07-00640-CV  
#08-1056

## Franchise Tax; Protest

Claim Amount	Reporting Period
\$390,471.26	1997 - 2000
\$1,422,008.76	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

Van Oort, Kevin                      OAG Taxation / Austin

### *Opposing Counsel*

McBride, James T. Jackson Walker L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also seeks attorneys' fees.

Status: Hearing on Cross-Motions for Summary Judgment heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed

05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief filed 12/14/09. Amicus letter filed 12/31/09. Petition for Review granted 03/12/10. Case submitted on oral argument on 04/15/10. Petitioner's post-submission brief filed 06/09/10. Amicus letter received 08/06/10. Opinion issued 05/27/11, reversing the court of appeals' judgment and remanding the case to the trial court for further proceedings.

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***TLH Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-002768 AG Case #: 103213674

Filed: 8/6/2010

Franchise Tax; Protest, UDJA, APA

Claim Amount	Reporting Period
\$70,339.50	Report year 2010

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.	OAG Taxation / Austin
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Opposing Counsel

Skaggs, Jack Ernest	Jackson Walker, L.L.P / Austin
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Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b) and §171.0001(12).

Status: Answer filed.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

Claim Amount	Reporting Period
\$754,178.16	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Discovery in progress.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

#10-0509

Sales Tax; Refund

Claim Amount      Reporting Period

\$299,328.98      04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Response to the Motion for Rehearing filed 12/03/09. Substitute Opinion issued 04/22/10, reversing the Court of Appeals' 08/31/09 decision, remanding both issues to the trial court. Appellant's Motion for Rehearing filed 05/07/10; overruled 05/19/10. Petition for Review filed in the Texas Supreme Court on 07/02/10; denied 09/08/10. Mandate issued 10/22/10.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424

AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Hearing on Defendant's Motion to Consolidate held and denied on 01/05/11. Hearing on Plaintiff's Motion for Summary Judgment held on 01/19/11. Court issued letter ruling on 02/03/11 denying Plaintiff's MSJ. Order pending.

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***Air Liquide America, L.P. v. Compt., et al.***

Cause Number: D-1-GN-09-000193 AG Case #: 093101491

Filed: 1/21/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,769,627.00	01/01/98 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to credit interest on the gross amount of credits rather than the net amount.

Status: Answer filed.

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***Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000056 AG Case #: 062269030

Filed: 1/6/2006

Sales Tax; Refund



Claim Amount      Reporting Period  
\$2,660,546.29      10/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether equipment purchased by Plaintiff is exempt from sales tax as tangible personal property used in manufacturing and processing. Whether freight charges are exempt from sales tax under the manufacturing exemption.

Status: Notice of Non-suit entered 06/16/11.

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***Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001791      AG Case #: 113272736      Filed: 6/15/2011  
Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period  
Aug. 1, 2006 - Jan. 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.      OAG Taxation / Austin

*Opposing Counsel*

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Tresnicky, John      Austin

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.  
Whether officers and directors of Plaintiff may be held liable for the assessment.  
Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Answer filed.

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***Apache Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004344      AG Case #: 103170098      Filed: 12/21/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$7,080,790.79	Jan. 1, 1995 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff's refund suit raises multiple exemptions to the application of the sales and use tax to its operations. Claims include manufacturing exemptions, sale for resale, and services performed on exempt TPP.

Status: Discovery in progress. Trial set for September 2012.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989 AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Discovery in progress. Trial set for September 2012.

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***Aramis Services, Inc. v. Rylander, et al.***

Cause Number: 0000384

AG Case #: 001273051

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$281,676.36	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Agreed Judgment entered 03/28/11.

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***Aramis Services, Inc. v. Sharp, et al.***

Cause Number: 98-03527	AG Case #: 98930349	Filed: 4/3/1998
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Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$291,196.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Agreed Judgment entered 03/28/11.

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***AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002080 AG Case #: 062365986

Filed: 6/7/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$21,934,496.00	01/01/95 - 07/31/04
\$1,484,356.00	01/01/00 - 07/31/04
\$1,391,152.00	01/01/00 - 07/31/04
\$22,827,857.00	01/01/00 - 07/31/04
\$4,435,506.00	01/01/99 - 07/31/04
\$4,435,506.00	01/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of electricity used in a manufacturing process are exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold. Whether electricity purchased and used to process tangible personal property for sale as tangible personal property is exempt from sales tax under the manufacturing and processing exemption. Whether Plaintiffs' purchases and/or leases of tangible personal property directly used or consumed in or during a manufacturing process are exempt from sales tax.

Status: Motion to retain filed and granted. Trial set for 12/05/11.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565 AG Case #: 072440159  
#03-10-00323-CV

Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$53,654.00	01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of equal protection, equal and uniform taxation, and the Commerce clause.

Status: Cross-Motions for Summary Judgment heard on 04/27/10. Final Judgment entered 05/12/10, granting Defendants' Cross-Motion. Plaintiff's Notice of Appeal filed 06/07/10. Appellant's brief filed 10/04/10. Appellee's Motion for Extension of Time to File Brief filed 10/29/10. Appellee's brief filed 12/16/10. Request for oral argument denied 12/23/10. Appellant's Reply Brief filed 01/05/11. Case submitted on briefs on 06/21/11.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$196,853.60	07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Roberts, William A.	The Roberts Law Firm / Dallas
Coleman, Kyle	

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable. Whether the Comptroller erred by misapplying burden of proof and whether the requirement is

constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Jurisdictional plea, motion to dismiss and counterclaim filed.

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***BBB Trading Co. v. State of Texas, et al.***

Cause Number: C-1-CV-08-011446 AG Case #: 082539305

Filed: 10/28/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$426,282.46	June 01, 2003 to Nov. 30, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Leeper, David P.	El Paso
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Issue: Plaintiff claims that the Comptroller should grant insolvency relief. Plaintiff seeks injunctive relief, exemplary damages, and attorney's fees.

Status: Case transferred to the Bankruptcy & Collections Division, to AAG David Randell.

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***Bell Bottom Foundation Company v. Rylander, et al.***

Cause Number: 99-01092

AG Case #: 991112186

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$81,571.73	01/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Whether taxpayer's sub-contract was a separated contract since the general contractor's construction contract was separated.

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted.

Negotiating an agreed scheduling order. Motion to Retain filed 11/29/06; granted 03/27/07.

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***Bell Helicopter Textron, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002279 AG Case #: 082516972  
#03-10-00764-CV

Filed: 6/27/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,438,127.83	01/01/01 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit. Whether Plaintiff is entitled to the manufacturing exemption for property sold under the applicable FAR's even though the government may not take possession of the manufactured property. Whether Plaintiff's gas and electricity are used in manufacturing.

Status: Court ruled for Comptroller after 08/02/10 trial. Notice of Appeal filed 11/16/10. Appellant's brief filed 02/11/11. Appellee's brief filed 05/27/11. Appellant's Reply Brief filed 07/01/11.

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***Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001788 AG Case #: 113272520

Filed: 6/15/2011

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
	June 1, 2006 - Oct. 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Tresnicky, John	Austin
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Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.  
Whether officers and directors of Plaintiff may be held liable for the assessment.  
Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Answer filed.

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***BHR Texas L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003056 AG Case #: 093150829

Filed: 9/10/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$19,590.14	05/01/2000 through 07/31/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Black Thirst, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-001389 AG Case #: 093123933

Filed: 4/30/2009

Sales and use Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$281,499.71	

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Hopkins, Mark D.	Hopkins & Williams, PLLC / Austin
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Issue: Whether Plaintiff owes tax as a successor to a business with outstanding tax liabilities.

Status: Answer filed.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

#03-09-00617-CV

#11-0283



Sales Tax; Refund

Claim Amount	Reporting Period
\$3,750,000.00	12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating with Cause #D-1-GN-06-000787 signed 05/14/07. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09. Clerk's Record filed 01/05/10. Appellant's brief filed 03/08/10. Appellee's Motion for Extension of Time to File Brief filed 03/24/10; granted 04/01/10. Appellee's brief filed 05/07/10. Appellant's Motion for Extension of Time to File Reply Brief filed and granted 05/20/10. Reply brief filed 06/28/10. Case submitted on oral argument on 09/29/10. Appellee's Post-submission brief filed 10/13/10. Memorandum Opinion issued 03/16/11, affirming the district court's judgment. Petitioner's Motion for Extension to File Petition for Review in the Supreme Court filed 05/17/11; granted 05/20/11. Petition for Review filed 06/20/11. Respondent's Response to Petition for Review waived 06/21/11.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876

Filed: 3/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,029,344.00	06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating into Cause # GN401955 signed 05/14/07.

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***Boat Town, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001659 AG Case #: 103199972

Filed: 5/24/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,915.79	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Dolezal, Trey L.	Kasling, Hemphill, Dolezal & Atwell, L.L.P. / Austin
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Guerra, Stephanie H.

Issue: Whether plaintiff's purchase of a business causes it to become a successor to the seller's tax liability. Plaintiff also seeks recovery of attorney's fees.

Status: Answer filed.

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***Boeing North America, Inc. v. Strayhorn, et al.***

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$500,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***BP America Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004207 AG Case #: 083091371

Filed: 11/20/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$10,457,007.25	01/01/93 - 12/31/96 and 01/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings about fifty different issues on sales and use tax in connection with its production and refining operations. Claims include casualty losses, manufacturing exemptions, tax credits, and various service issues.

Status: Agreed Judgment entered 05/18/11.

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***BP America, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000049 AG Case #: 103172706

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,684,875.00	07/01/00 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings approximately twenty-five different sales and use tax refund issues in connection with its production and refining operations. Claims include waste removal, environmental services, credit interest, and various manufacturing exemption claims.

Status: Answer filed.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733 AG Case #: 062412879

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$217,355.92	01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Discovery in progress.

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***Budget Prepay, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001189 AG Case #: 113263867

Filed: 4/21/2011

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,476.82	11/01/04 through 02/29/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Seidel, Scott M.

Gulotta, Anthony C.

AG Tax Law, P.C. / Harrisburg, PA

Issue: Whether the "prompt payment discount" which Plaintiff provides to its customers constitutes a discount from the sales price.

Status: Answer filed.

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***Burns, Kevin D. v. Strayhorn, et al.***

Cause Number: GN504208

AG Case #: 052253457

Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$1,300,000.00      01/01/96 - 10/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the transfer of certain tangible personal property from customers to Plaintiff to be leased back to customers with a purchase option are non-taxable financing transactions. Whether sales taxes previously submitted are binding within Plaintiff's bankruptcy plan. Plaintiff claims violation of equal and uniform taxation, and also seeks attorneys' fees.

Status: Inactive.

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***C & T Stone Company v. Rylander, et al.***

Cause Number: GN002428

AG Case #: 001344233

Filed: 8/18/2000

Sales Tax; Protest

Claim Amount      Reporting Period

\$207,454.40      04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T.

Attorney at Law / Austin

Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Inactive.

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***C.C. Carlton Industries, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-08-003460 AG Case #: 082530270

Filed: 9/22/2008

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$247,570.73      01/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Holcomb, Donald W.

Knolle, Holcomb, Kothmann & Callahan / Austin

Issue: Whether Plaintiff owes tax on construction and electrical work.

Status: Discovery in progress. Non-Jury trial set for 01/30/12.

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***Captain Hook-Austin, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000544 AG Case #: 113250096

Filed: 2/22/2011

Sales and use Tax; APA

Claim Amount      Reporting Period

\$84,000.00      01/01/05-12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Bigelow, Bruce

Blazier, Christensen, Bigelow & Virr, P.C. / Austin

Issue: Whether certain waste removal services were associated with new construction and not subject to the sales tax.

Status: Answer filed.

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***Carino's Italian Kitchen, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000524 AG Case #: 103179644

Filed: 2/18/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$97,924.98      07/01/02 through 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether certain cleaning supplies used in food processing areas qualify for the manufacturing exemption. Whether the Comptroller used the proper calculation method for interest applied to overpayments.

Status: Answer filed.

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***Cashiola, James v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004629 AG Case #: 072434863

Filed: 12/15/2006

Sales Tax; Administrative Appeal

Claim Amount      Reporting Period

\$1,112,768.76      11/21/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.      OAG Taxation / Austin

*Opposing Counsel*

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Grimsinger, William O.      Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Issue: Whether Plaintiff owes sales tax under successor liability. Plaintiff claims the Comptroller audited the acquired company for the same telecommunications consulting services and previously found no sales tax liability due. Plaintiff claims debts were created without his knowledge and the exercise of reasonable diligence would not have revealed the

intention to create a tax debt.

Status: No Evidence Motion filed by Plaintiff. Consideration on repleading answer.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$244,808.38	01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of equal and uniform taxation, and due process.

Status: Inactive.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Court sent Notice of DWOP on 08/21/09. Plaintiff's Motion to Retain filed 08/19/09;



granted 09/23/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Chapal Zenray, Inc. v. Combs, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

#03-10-00646-CV

Sales Tax; Protest

Claim Amount      Reporting Period

\$210,943.91      01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Plaintiff's Partial Motion for Summary Judgment granted. Final Judgment for Plaintiffs entered 08/18/10. The State filed its Notice of Appeal on 09/17/10. Appellant's brief filed 01/31/11. Appellee's Motion for Extension of Time to File Brief filed 02/16/11; granted 02/22/11. Appellee's brief filed 04/01/11; oral argument requested. Oral argument denied 04/06/11. Reply brief filed 04/20/11. Appellee's Supplemental Brief filed 05/24/11.

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***Chevron USA, Inc. v. Strayhorn, et al.***

Cause Number: GN403978

AG Case #: 042071324

Filed: 12/6/2004

#03-07-00127-CV

#10-0823

Sales Tax; Refund

Claim Amount      Reporting Period

\$439,225.00      01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Discovery in progress. Hearing on cross-motions for summary judgment held 06/28/06. Chevron's motion for partial summary judgment granted; Comptroller's motion denied. Hearing for judgment held 01/31/07. Chevron's motion to sever granted; final judgment entered. The State filed a Notice of Appeal on 02/28/07, arguing that the trial court erred in denying its plea to the jurisdiction and in granting Chevron's motion for partial summary judgment. Clerk's Record filed 03/20/07. Court Reporter's Record filed 03/29/07. Appellants' brief filed 05/17/07; Oral Argument requested. Appellee's brief filed 06/15/07; Oral Argument requested. Appellants' reply brief filed 07/23/07. Case submitted on Oral Argument on 11/28/07. Appellant's Response filed 06/10/09. Appellant's Motion for Leave filed 06/16/09; granted 06/23/09. Opinion issued 02/05/10, reversing and rendering judgment for the Comptroller on both issues. Appellee's Motion for Rehearing filed 02/22/10; denied 04/09/10. Opinion issued 02/05/10 was withdrawn and a substitute opinion was issued on 04/09/10. Appellee's Second Motion for Rehearing filed 04/28/10; granted 05/04/10. Appellant's Response filed 05/12/10. Appellee's Reply to Response filed 05/13/10; overruled 08/27/10. Chevron's Petition for Review filed in the Tx. Supreme Court on 11/05/10. Response waived 11/09/10. Court requested response on 12/29/10. Response filed 01/28/11. Petitioner's Reply filed 02/08/11. Petition for Review denied 02/25/11. Mandate issued 05/27/11.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

Benesh, W. Stephen  
Sampson, Jr., Phillip L.

Bracewell & Patterson / Austin

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state.

Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Plaintiff waiting for outcome of Estee Lauder Services, Inc. cases. Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

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***Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.***

Cause Number: GN502649

AG Case #: 052186616

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$10,177,377.49	01/01/93 - 12/31/96

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin                      OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of telecommunications equipment qualify as tangible personal property for ultimate sale as tangible personal property that are exempt from sales tax under the manufacturing and processing exemption. Whether electricity purchased and used in telecommunications is exempt from sales tax under the manufacturing and processing exemption.

Status: Unopposed Motion to Reinstate filed 08/27/08. Trial set for 12/05/11.

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***Cirrus Exploration Company v. Combs, et al.***

Cause Number: D-1-GN-11-001851    AG Case #: 113273395

Filed: 6/21/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
	01/01/06 - 06/30/06

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether Plaintiff qualifies as a licensed and certificated carrier under Tex. Tax Code §151.328(a).

Status: Answer filed.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823 AG Case #: 062409446  
#03-08-00291-CV  
#10-0416

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Feldman, David M.

Feldman & Rogers, L.L.P. / Houston

Cowan, Robert W.

Gregg, Jr., Dick H.

Gregg & Gregg, P.C. / Houston

Issue: Whether the Comptroller's reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition

filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed 09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09; denied 04/16/10. Denton's Petition for Review filed in the Texas Supreme Court on 06/01/10. Webster's Petition for Review filed 06/03/10. State's Response filed 06/22/10. State's Cross-Petition for Review filed 06/30/10. Webster's Reply filed 07/07/10. Denton's Reply filed 07/09/10. Response to the State's Cross-Petition waived by Webster on 07/15/10, and by Denton on 07/16/10. Petitions for Review denied 08/20/10. Mandate issued by Court of Appeals on 10/22/10. Intervenors (Denton, et al.) filed Notice of Non-Suit on 10/29/10.

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***Clinique Services, Inc. v. Rylander, et al.***

Cause Number: GN000376

AG Case #: 001273069

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$650,361.82	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Agreed Judgment entered 03/28/11.

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***Clinique Services, Inc. v. Sharp, et al.***

Cause Number: 98-03533

AG Case #: 98930330

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$519,192.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Agreed Judgment entered 03/28/11.

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***Clinique Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500049

AG Case #: 052085933

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$654,245.96	04/01/98 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and

uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Agreed Judgment entered 03/28/11.

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***Coastal Industries, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004273 AG Case #: 083092296

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,625.00	Oct. 1, 2000 - June 30, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether mold remediation services are taxable. Whether work was done in a disaster area. Whether Comptroller rules are invalid. Whether equal protection and the commerce clause were violated. Whether Plaintiff detrimentally relied on Comptroller advice. Plaintiff also seeks declaratory relief.

Status: Discovery in progress. Non-jury trial set for 03/07/12.

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***Coca-Cola Company, The v. Strayhorn, et al.***

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,060,883.03	07/01/97 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	
Osterloh, Curtis J.	

Issue: Whether replacement parts and the repair of fountain drink machines leased to customers by Plaintiff are exempt from sales tax as manufacturing equipment and the sale for

resale exemption.

Status: Scheduling order filed 01/09/09.

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***Continental Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001751 AG Case #: 103200416

Filed: 5/28/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,919,943.00	11/01/1998 to 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the Comptroller properly applied the statute of limitations to specific transactions based on the invoice date rather than an accrual date. Whether the Comptroller properly excluded a transaction from an audit sample based on the invoice date. Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a leased facility, qualify for the sale for resale exemption. Whether Plaintiff's purchase of equipment and consumable supplies qualify for exemption under 151.328(d) (aircraft maintenance) and 151.328(e), respectively.

Status: Answer filed.

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***Cosmair, Inc. v. Strayhorn, et al.***

Cause Number: GN302009

AG Case #: 031816135

Filed: 6/9/2003

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,322,536.67	07/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	



Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) "use" includes distribution; 2) use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys' fees.

Status: Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

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***Courthouse Direct.com v. Combs, et al.***

Cause Number: D-1-GN-11-001252 AG Case #: 113268445

Filed: 4/27/2011

Sales and use Tax; Refund and Protest; UDJA

Claim Amount      Reporting Period

\$77,604.00      (plus interest & penalties) 12/01/98 thru 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D.

Hopkins & Williams, PLLC / Austin

Roberts, William A.

The Roberts Law Firm / Dallas

Issue: Whether services provided by Defendants including title search services, constitute information services or should be exempt as "landman" services under §151.0048(b-1).

Status: Discovery in progress.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567

AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

Claim Amount      Reporting Period

\$243,910.85      12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734 AG Case #: 072432578

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Beam, Patrick L.	Attorney at Law / Aransas Pass
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Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Case DWOP'd on 08/24/09. Motion to Reinstate filed 09/22/09; granted 10/09/09.

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***Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002414 AG Case #: 093142628

Filed: 7/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$1,877,825.91	01/01/2000 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
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Issue: Whether Del Monte qualifies for the manufacturing exemption on equipment, parts, packaging and electricity used in its operations with raw potatoes and tomatoes.

Status: Answer filed.

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***Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)***

Cause Number: D-1-GN-06-004267 AG Case #: 062425566  
#03-10-00801-CV

Filed: 11/9/2006

**Sales Tax; Refund**

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98
	01/01/99 - 05/31/02
\$1,440.73	09/01/94 - 08/31/98

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Hearing on Cross-Motions for Summary Judgment held 08/18/10. Case consolidated with Centreport Partners, L.P. v. Combs, et al., Cause #D-1-GN-07-000152. Court ruled for the Comptroller on 08/24/10. Plaintiff's Amended Notice of Appeal filed 12/03/10. Appellant's brief filed 02/15/11; oral argument requested. Appellee's brief filed 05/03/11. Appellant's Motion to Withdraw Attorney filed 05/04/11; granted 05/11/11. Appellant's Reply

***Dow Jones & Company, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001506 AG Case #: 113269112

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$97,206.96	April 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Leatherbury, Thomas S.	Vinson & Elkins L.L.P. / Dallas
Hobbs, Lisa Bowlin	Vinson & Elkins L.L.P. / Austin
Penny, James D.	Vinson & Elkins LLP / Houston
Rosenbaum, Glen A.	

Issue: Plaintiff alleges that §151.319, which provides an exemption for newspapers having a sales price of less than \$1.50, violates the Equal Protection Clause and the First Amendment of the U.S. Constitution. Plaintiff alleges that Comptroller's application of §151.319 violates the rule promulgation requirements of the APA.

Status: Answer filed. Case removed to Federal Court.

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***DSC Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-003112 AG Case #: 103218558

Filed: 9/2/2010

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$52,189.00	02/01/02 through 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Rosenblatt, James David	San Antonio
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Issue: Plaintiff challenges methodology of a sales and use tax audit. Plaintiff also seeks a

waiver of assessed penalty and interest.

Status: Discovery in progress. Trial set for 09/12/11.

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***EFW, Inc. v. Rylander, et al.***

Cause Number: GN200906

AG Case #: 021579578

Filed: 3/19/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$123,440.25	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug  
Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***EFW, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000058    AG Case #: 062269022

Filed: 1/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$600,000.00	04/01/98 - 08/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500048

AG Case #: 052085990

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$586,255.47	07/01/99 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Agreed Judgment entered 03/28/11.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.***

Cause Number: GN203514

AG Case #: 021681226

Filed: 9/26/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$284,508.69	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Agreed Judgment entered 03/28/11.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500047

AG Case #: 052085966

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$750,946.09      03/01/98 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Agreed Judgment entered 03/28/11.

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***Energy Education of Montana, Inc. v. Combs***

Cause Number: D-1-GN-09-001249

AG Case #: 093120491

Filed: 4/17/2009

#03-10-00644-CV

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$890,601.19	06/06/03 to 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Sequist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Rogers, Harold D.	Wichita Falls
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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Cross-Motions for Summary Judgment heard on 05/12/10. Letter ruling granting Comptroller's MSJ and denying Plaintiff's MSJ entered 06/10/10. Final Order signed 08/19/10. Notice of Appeal filed 09/17/10. Appellant's Brief filed 01/21/11; oral argument requested. Appellee's brief filed 03/29/11. Oral argument denied 04/06/11.

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***Energy Education of Montana, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002728 AG Case #: 093146496  
#03-10-00644-CV

Filed: 8/20/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$154,800.33	06/01/2003 through 06/30/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Sequist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Abated pending resolution of Energy Education of Montana, Inc. v. Combs, Cause #D-1-GN-09-001249.

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***Estee Lauder Services, Inc. v. Rylander, et al.***

Cause Number: GN101312

AG Case #: 011439874

Filed: 5/1/2001



Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$614,814.78	04/01/96 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Agreed Judgment entered 03/28/11.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03525	AG Case #: 98930358	Filed: 4/3/1998
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Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$472,225.00	01/01/89 - 09/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Agreed Judgment entered 03/28/11.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03524	AG Case #: 98930367	Filed: 4/3/1998
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Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$748,773.00	10/01/92 - 03/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Agreed Judgment entered 03/28/11.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.***

Cause Number: GN002724	AG Case #: 001353960	Filed: 9/15/2000
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Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Isgitt, Percy L. "Wayne"	Law Offices of Percy L. "Wayne" Isgitt, P.C. / Houston
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Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Motion for Summary Judgment hearing set for September. Amended MSJ's due in July by order of the court.

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***First Class Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001271	AG Case #: 093120772	Filed: 4/17/2009
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Sales and use Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$150,000.00	10/01/00 through 04/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Fowler, Gerald Fife	Houston
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Issue: Whether Plaintiff is liable for tax as successor when assessment was made after Plaintiff bought business.

Status: Answer filed.

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***Florida Management, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-004244 AG Case #: 083091280

Filed: 11/21/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$85,965.30	Oct. 1, 2001 - Dec. 31, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Stratton, C. Mark	Austin
Lyon, Ted B.	Mesquite

Issue: Whether Plaintiff is a "retailer" or "seller" for the sales tax. Whether sale of an airplane in connection with an unpaid loan is a taxable transaction.

Status: Discovery completed.

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***Frito-Lay, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004051 AG Case #: 082539784

Filed: 11/7/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$450,735.13	11/01/1999 thru 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff claims the manufacturing exemption for tangible personal property used to develop and test new products and manufacturing processes.

Status: Cross-Motions for Summary Judgment heard on 06/15/10. Cross-Motions denied 06/16/10. Bench trial on bifurcated issue conducted on 09/13/10. Second half of trial conducted 12/08/10. Judgment for Plaintiff signed 12/13/10. Request for Findings of Fact & Conclusions of Law signed 12/17/10. Motion for New Trial filed 01/11/11; denied 02/24/11.

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***Future A's Limited Liability v. Combs, et al.***

Cause Number: D-1-GN-09-003565 AG Case #: 093157964

Filed: 10/15/2009

Sales and use Tax; Redetermination

Claim Amount Reporting Period

\$134,706.00 12/31/2004 through 03/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Mastrangelo, John

Houston

Issue: Whether the audit procedures applied in the audit were appropriate.

Status: Plea to the Jurisdiction and Special Exceptions filed 11/16/09. Discovery in progress.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201322

AG Case #: 021598057

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount Reporting Period

\$7,000,000.00 09/01/88 - 11/30/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201323

AG Case #: 021598073

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount      Reporting Period

\$4,500,000.00      12/01/91 - 02/28/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Motion and Order consolidating into Lockheed Martin Corporation v. Rylander, et al., Cause #GN200999 entered 01/30/08.

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***GEO Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-09-002855      AG Case #: 093146850

Filed: 8/28/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$1,367,377.14      05/01/2001 through 04/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Hagenswold, R. Eric

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether electricity and natural gas consumed by a correctional facility is subject to the residential use exemption under §151.317(c).

Status: Discovery in progress.

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***Gift Box Corporation of America, Inc. v. Rylander, et al.***

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$359,929.22	10/1991 - 03/1997

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A.

DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Case reinstated. Discovery in progress.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-09-002137

AG Case #: 093136810

Filed: 7/2/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$148,709.00	02/01/1999 through 03/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Plaintiff claims an exemption for electricity used in its food business.

Status: Answer filed.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001804 AG Case #: 093131431

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$208,304.00	11/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001803 AG Case #: 093131415

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$55,893.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904

AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Grocers Supply-Produce Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001805

AG Case #: 093131423

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,796.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091

AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment



Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000649 AG Case #: 062295480

Filed: 2/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,193,519.44	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/05/11.

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***GTE Southwest, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000058 AG Case #: 072433519

Filed: 1/8/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,313.96	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether telecommunication signals constitute tangible personal property exempt from tax under the manufacturing and processing exemption. Whether equipment used in or during the processing of telecommunication signals causes a physical change to the signals. Whether the processing of telecommunication signals, which Plaintiff claims are tangible personal property, should be treated as a sale.

Status: Trial set for 12/05/11.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501829

AG Case #: 052154143

Filed: 5/19/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,000,000.00	10/01/93 - 02/28/98
\$72,000,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Osterloh, Curtis J.	

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Court order consolidating with GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN504191 signed 02/03/08. Trial set for 12/05/11.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN502330

AG Case #: 052177326

Filed: 7/6/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,615,825.26	05/01/91 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Trial set for 12/05/11.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN504191

AG Case #: 052252699

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,489.27	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold.

Status: Case consolidated into case styled GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN501829 per court order signed 02/03/08.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003732 AG Case #: 062412887

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,900,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether electricity purchased by Plaintiff to perform telecommunications services is exempt as tangible personal property that was resold. Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/05/11.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002468 AG Case #: 062380522

Filed: 7/6/2006

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/1995 through 02/28/1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax.

Status: Answer filed 07/26/06. DWOP notice sent from the court on 11/12/08. Motion to Retain filed 11/24/08. Trial set for 12/05/11.

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***GWR Aviation, LLC v. Combs, et al.***

Cause Number: D-1-GN-10-002059 AG Case #: 103202826

Filed: 6/21/2010

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$217,346.25	April 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Sequist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens & Associates / Austin

Seay, Michael B.

Todd, Kelli H.

Issue: Whether the purchase of an aircraft was exempt from sales/use tax under the resale exemption in §151.302.

Whether the purchase of an aircraft was subject to exemption from sales/use tax pursuant to §151.328(a)(1).

Whether Plaintiff's purchase of the aircraft is exempt as an occasional sale under §151.304.

Plaintiff seeks an injunction against the Comptroller's collection of the tax assessment.

Status: Agreed Judgment entered 04/18/11.

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***Harsco Corp. vs Combs, et al.***

Cause Number: D-1-GN-07-004512 AG Case #: 082486747

Filed: 12/28/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$886,138.23	02/01/97-06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Martin, Mark R.                      Gardere Wynne & Sewell / Dallas

Issue: Whether scaffolding is exempt. Whether interest and penalty should be waived.  
Whether interest was properly calculated.

Status: Hearing on Cross-Motions for Partial Summary Judgment held on 11/10/09. Partial  
Summary Judgment granted for Harsco on scaffolding. Summary Judgment granted for  
Comptroller on interest calculations.

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***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771    AG Case #: 082512302  
#03-10-00675-CV

Filed: 5/23/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman  
and Raytheon cases.

Status: Answer filed. Trial held 06/01/10. Judgment for Plaintiff entered 07/13/10. Order  
Denying Defendants' Request for Amended and Additional Findings of Facts and Conclusions  
of Law entered 08/23/10. Notice of Appeal filed 10/06/10. Appellant's Motion to Abate  
Appeal filed 11/29/10. Appellee's Response filed 12/08/10. Motion to Abate Appeal  
overruled 12/09/10. Appellant's brief filed 01/11/11. Appellee's brief filed 02/09/11; oral  
argument requested. Oral argument denied 02/25/11. Appellant's Reply Brief filed 03/01/11.  
Appellee's certificate of conference filed 04/13/11. Appellant's and Appellee's Letter Briefs  
filed 04/20/11. Appellee's Motion to File Supplemental Brief filed 05/09/11; granted  
05/24/11. Case submitted on briefs on 07/05/11. Memorandum Opinion issued 07/07/11,  
affirming the district court's judgment.

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***High Tech Document Service v. Combs, et al.***

Cause Number: D-1-GN-10-000220 AG Case #: 103175469

Filed: 1/20/2010

Sales and use Tax; Protest

Claim Amount Reporting Period

\$61,592.65 09/01/00 through 01/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Whether the purchase of certain items subsequently leased to a third party are eligible for the sale-for-resale exemption.

Status: Answer & Special Exception filed.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463 AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount Reporting Period

\$2,595,000.00 01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Trial set for 06/28/10.

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***Hospice DME of Texas, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001746 AG Case #: 113271118

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount      Reporting Period  
\$257,661.50      01/01/04 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin  
Jones, Matthew C.

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Answer filed.

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***Hospice DME of West Texas, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001743      AG Case #: 113271050

Filed: 6/11/2011

Sales and use Tax; Protest

Claim Amount      Reporting Period  
\$49,442.51      January 1, 2005 through December 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin  
Jones, Matthew C.

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices.

Status: Answer filed.

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***Hospice DME, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001744      AG Case #: 113271134

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount      Reporting Period  
\$51,140.79      10/01/05 through 12/31/06



Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Jones, Matthew C.

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Answer filed.

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***Hoss Equipment Co. v. Combs, et al.***

Cause Number: D-1-GN-09-000614 AG Case #: 093107316

Filed: 2/25/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$29,452.00      (plus interest and penalty) 7/1/00-2/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff made sales for resale and should not be bound by the limits of the 60-day letter. Whether Plaintiff made exempt sales for export. Plaintiff also seeks penalty and interest waiver.

Status: Case Dismissed for Want of Prosecution on 06/28/11.

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***Jetman, L.C. v. Combs, et al.***

Cause Number: D-1-GN-10-000311 AG Case #: 103176657

Filed: 1/28/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$165,547.03      08/01/03 through 08/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.

Mondrik & Associates / Austin

Issue: Whether the purchase of an aircraft was subject to exemption from the sales/use tax pursuant to §151.328(a)(1).

Status: Answer filed.

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***Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003762 AG Case #: 082534553

Filed: 10/17/2008

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$180,000.00      Sept. 1, 1999 through Feb. 29, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity is exempt as electricity used in processing when Plaintiff lowers the temperature of food products. Whether packing supplies, replacement parts, and repairs are exempt.

Status: Answer filed.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633 AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$6,958.18      07/01/00 - 06/30/04

\$5,591.87      07/01/00 - 06/30/04

\$31,330.82      07/01/00 - 06/30/04

\$21,811.57      07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 06/12/09. Plaintiffs' Amended Motion to Retain filed 08/19/09; granted 08/28/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN401379

AG Case #: 041964941

Filed: 4/30/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$18,579.66	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$443,299.77	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether Plaintiff owes sales tax on the purchase of money validators due to the integration of the validators into the final product, the vending machine.

Status: Discovery in progress. Defendants' Motion to Strike Deemed Admissions granted 02/20/09. Defendants' Amended Responses to Plaintiff's Second Requests for Admissions signed 02/23/09. Court denied Plaintiffs' MSJ heard on 04/01/10.

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***Lee Construction and Maintenance Company v. Rylander, et al.***

Cause Number: 99-01091

AG Case #: 991112160

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$31,830.47	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Trial to be reset. Motion to Retain filed by Plaintiff 11/29/06. Order granting Motion to Retain signed 03/27/07.

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***Leoncito Plant, L.L.C. v. Combs, et al.***

Cause Number: D-1-GN-11-001116 AG Case #: 113260947

Filed: 4/14/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$619,588.00	01/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether the purchase of pumping equipment and piping is eligible for the water recycling exemption under §151.355(l). Whether purchase of casing is eligible for the manufacturing exemption under §151.318.

Status: Answer filed. Discovery in progress.

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***Liberty Vending Services, Inc. v. Strayhorn, et al.***

Cause Number: GN502836

AG Case #: 052198108

Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$9,000.00	10/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is liable for sales and use tax on sales of food items, soft drinks and candy sold through contracted vending machines located at exempt locations. Whether the Comptroller improperly categorized certain food item purchases as taxable. Plaintiff seeks injunctive relief and release of all state tax liens. Plaintiff claims violation of constitutional rights and equal protection and equal taxation. Plaintiff also claims violation of the Commerce Clause and the Supremacy Clause.

Status: Answer filed.

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***Lockheed Corporation v. Rylander, et al.***

Cause Number: GN201000

AG Case #: 021583745

Filed: 3/26/2002

D-1-GN-02-001000

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	03/01/93 - 01/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Plaintiff filed Motion to Retain; granted 05/23/07.

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***Lockheed Martin Corporation v. Rylander, et al.***

Cause Number: GN200999

AG Case #: 021583737

Filed: 3/26/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,500,000.00	01/01/96 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Motion and Order consolidating with General Dynamics Corp. v. Rylander, et al., Cause #GN201323 entered 01/30/08. Amended Notice of Trial Setting filed 01/30/09. Amended Agreed Scheduling Order filed 11/17/09.

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***Lubrizol Corp., The v. Combs, et al.***

Cause Number: D-1-GN-09-003193    AG Case #: 093151769

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$300,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.                      Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments.

Status: Answer filed.

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***Mars, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004471 AG Case #: 093096741

Filed: 12/12/2008

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$804,889.00	10/1/1997 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of magazine subscriptions are exempt from sales tax. Whether Plaintiff's purchases of waste removal services are exempt from sales tax.

Status: Discovery in progress.

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***Mars, Inc. v. Strayhorn, et al.***

Cause Number: GN401349

AG Case #: 041965336

Filed: 4/29/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$726,024.00	01/01/94 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of installation labor are exempt as purchases of non-taxable stand-alone installation services.

Status: Trial passed by agreement. Hearing on Plaintiff's Motion for Partial Summary

Judgment previously set for the week of 06/28/10 has been passed by agreement.

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***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217 AG Case #: 082505595

Filed: 4/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Trial set for 04/25/11. Trial setting passed by agreement.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: GN404187

AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,794,780.29	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the



Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***NCO Financial Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004447 AG Case #: 113247738

Filed: 12/22/2010

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,889,671.18      (+ principal & interest) 08/01/99 through 12/31/0

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether debt collection services provided by Plaintiff should be exempt as a service benefiting an out-of-state customer under 34 TAC 3.345(g). Plaintiff also asserts a refund claim for taxes paid on financial settlement services and on interpretation and translation services.

Status: Answer filed.

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***Olmos Abatement, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004361 AG Case #: 083092882

Filed: 12/3/2008

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$9,739.97      10/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.

The Trickey Law Firm / Austin

Issue: Whether expense items used in the asbestos abatement process are exempt. Whether the items were resold to the exempt entities for whom the services were performed.

Status: Answer filed.

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***Pointsmith Point of Purchase Management Services, LP v. Combs, et al.***

Cause Number: D-1-GN-11-001514 AG Case #: 113269286

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$247,670.20      11/11/03 through 03/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Masters, Paul H.

Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Grimsinger, William O.

Issue: Whether charges associated with Defendant's printing services should be characterized as receipt for storage services. Whether certain transactions are exempt as sale-for-resale. Whether certain transactions are exempt as out of state sales. Whether the Comptroller properly calculated the error rate in the audit. Whether the Comptroller properly denied penalty and interest waiver.

Status: Answer filed. Discovery in progress.

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***Pop Restaurants, LLC. v. Combs, et al.***

Cause Number: D-1-GN-10-002636 AG Case #: 103207007

Filed: 7/9/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$91,679.00      01/01/2003 thru 12/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Plaintiff alleges that it over reported sales and remitted sales tax on that amount.

Status: Discovery in progress.

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***Rackspace US Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000947 AG Case #: 113260749

Filed: 3/31/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$739,186.00	10/01/01 - 06/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether purchase of a software license qualifies for the sale-for-resale exemption.

Status: Discovery in progress.

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***Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.***

Cause Number: C-1-CV-08-006490 AG Case #: 082517020

Filed: 6/30/2008

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$325,245.13	Apr. 1, 2003 - Aug. 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Leeper, David P. El Paso

Issue: Whether sales tax was correctly calculated. Whether Plaintiff qualifies for insolvency relief. Plaintiff seeks injunctive relief, damages, and attorney's fees.

Status: Plaintiff's Motion for Summary Judgment filed, no date set.

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***Richmont Aviation, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000783 AG Case #: 113254387

Filed: 3/16/2011

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$530,195.64	01/01/04 thru 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption pursuant to either §151.328 (a)(1) or the sale for resale exemption.

Status: Hearing on State's PTJ and Plaintiff's application for injunctive relief held on 06/02/11. Court granted State's PTJ on 06/29/11.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831 AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus

and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Trial setting passed. Discovery in progress.

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***Roark Amusement & Vending, L.P. v. Combs, et al.***

Cause Number: D-1-GN-10-003530 AG Case #: 103224986

Filed: 9/30/2010

Sales and use Tax; Refund, Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$303,542.00	03/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin  
Traphagan, Amanda M.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.  
Seay, Michael B.

Martens & Associates / Austin

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated into Cause #D-1-GN-06-004725 on 12/02/09.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158  
#03-10-00105-CV  
#11-0261

Filed: 12/22/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.  
Seay, Michael B.

Martens & Associates / Austin

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09. Order granting Defendant's MSJ and denying Plaintiff's Motion for Partial Summary Judgment signed and entered on 02/22/10. Notice of Appeal filed 02/23/10. Clerk's Record filed 03/25/10. Appellant's Motion for Extension of Time to File Brief filed 04/28/10; granted 05/03/10. Appellant's brief filed 06/02/10. Appellee's brief filed 07/02/10. Appellant's reply brief filed 08/18/10. Case set for submission on oral argument on 10/20/10. Joint Motion to Postpone Oral Argument filed 08/19/10. Case submitted on oral argument on 12/15/10. Memorandum Opinion issued 01/26/11, reversing the trial court's grant of summary judgment in favor of the State, rendering judgment that Roark is entitled to the exemption, and remand the cause to the trial court for a determination of the amount of the refund to which Roark is entitled. Motion for Rehearing filed 02/10/11; overruled 02/24/11. Petition for Review filed in the Texas Supreme Court on 04/11/11. Amicus Curiae letter received 04/19/11. Court requested response on 05/20/11. Response to Petition for Review filed 06/07/11. Petitioner's Reply filed 06/22/11.

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***Root's Rocks, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004391 AG Case #: 113241509

Filed: 12/17/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$273,052.00      05/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Tome, Christopher J.

C. Tome Law Firm / Cedar Park

Issue: Whether Plaintiff's books and records accurately receipts subject to sales tax. Whether certain transactions are exempt as out of state sales.

Status: Answer filed.

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***Salim Abbas Merchant v. Combs, et al.***

Cause Number: D-1-GN-09-000511 AG Case #: 093107688

Filed: 2/17/2009

Sales and use Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Canfield, George W.

San Antonio

Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the Comptroller used unreliable data and incorrect mark-up percentages.

Status: Discovery in progress.

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***Sanadco, Inc. and Mahmoud A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.***

Cause Number: D-1-GN-10-000902 AG Case #: 113243950

Filed: 1/12/2011

Sales and use Tax; Declaratory Judgment, APA

Claim Amount	Reporting Period
\$26,312.00	01/01/08-02/28/09

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Jackson, Sammual T.

Arlington

Issue: Whether AP92 and AP122 were properly applied in determining Plaintiff's tax liability. Whether the implementation of AP92 and AP122 was in violation of the APA.

Status: Plea to the Jurisdiction granted 07/08/11.

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***Scott A. Williams v. Combs, et al.***

Cause Number: D-1-GN-10-004304 AG Case #: 103237426

Filed: 12/8/2010

Sales and use Tax; Administrative appeal; Injunction

Claim Amount	Reporting Period
\$83,022.00	July 1, 2005 through December 31, 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Kennedy, Nathan L.

Austin



Issue: Whether the procedures applied in the audit were appropriate. Taxpayer also seeks injunctive relief.

Status: Answer filed.

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***Senior Care Consultants, Inc. v. Prevail Systems, Inc., et al.***

Cause Number: DC-11-04352

AG Case #: 113271225

Filed: 5/2/2011

Sales and use Tax; Declaratory Judgment

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cook, Jeffrey

Sullivan & Cook / Dallas

Issue: The Comptroller is joined by the Defendant, Prevail Systems, Inc. and sued under the Uniform Declaratory Judgment Act. Defendant seeks a declaration of the sales tax responsibilities between Plaintiff and Defendant. Attorney fees have not been pled for against the Comptroller.

Status: Answer filed.

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***Shehzad Dhanani v. Combs, et al.***

Cause Number: D-1-GN-10-003321 AG Case #: 103224499

Filed: 9/17/2010

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period

\$14,987.77      11/01/05 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L.

Gamboa & White / Fort Worth

Issue: Whether Plaintiff, as the general manager of a convenience store, is liable for certain tax delinquencies of that entity, including taxes collected but not remitted.

Status: Answer filed.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637 AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$747,733.01	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Answer filed.

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***Southern Union Gas v. Combs, et al.***

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,910,000.00	07/01/1997 through 06/30/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Answer filed.

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***Southwest Royalties, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-004284 AG Case #: 103170106

Filed: 12/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$960,000.00	Jan. 1, 1997 through April 30, 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff's refund suit raises approximately 50 sales and use tax issues in relation to its production and refining operations. Claims include waste removal, sale for resale, environmental services, and various manufacturing exemption claims.

Status: Trial set for 12/19/11.

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***Southwestern Bell Telephone, L.P. v. Strayhorn, et al.***

Cause Number: GN402300

AG Case #: 041998360

Filed: 7/22/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$291,516,385.00	06/01/05 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	
Osterloh, Curtis J.	

Issue: Whether equipment used in telecommunications is exempt from sales tax under the manufacturing and processing exemption. Whether payphones purchased by Plaintiff to perform taxable telecommunications services qualify for the sale for resale exemption.

Whether electricity purchased and resold as an integral part of other tangible personal property and used to perform taxable telecommunications services is exempt from sales tax. Whether stand-alone installation labor provided directly to a customer by a vendor or by a third-party installer is taxable.

Status: Court sent Notice of Setting for DWOP on 08/24/07. Plaintiff filed Motion to Retain, Memorandum in Support of Motion to Retain and proposed Order Granting Motion to Retain on 08/15/07. Order Granting Motion to Retain signed 01/08/08. Scheduling order filed. Trial set for 12/05/11.

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***Spirit Drilling Fluids, GP, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-002542 AG Case #: 093144038

Filed: 8/7/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$378,328.05	08/01/2002 through 09/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Morris, Joe Scott	J. Scott Morris, P.C. / Austin
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Issue: Whether sales of drilling mud are consummated at the well sites, making them not subject to local tax at Plaintiff's headquarters in Houston.

Status: Agreed Judgment entered 06/30/11.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$92,357.48	05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Osterloh, Curtis J.

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Inactive.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$196,492.74	01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Blume, James	Blume & Studdard / Dallas
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.***

Cause Number: GN302075

AG Case #: 031816119

Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Blume, James

Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of San Antonio, LP, et al. v. Combs***

Cause Number: D-1-GN-09001026 AG Case #: 093116531

Filed: 3/31/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
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\$239,634.20	01/01/02 through 09/30/05
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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***Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.***

Cause Number: D-1-GN-10-001182 AG Case #: 103191029

Filed: 4/13/2010

#03-10-00648-CV

Sales and use Tax; Refund

Claim Amount	Reporting Period
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\$1,604,367.17	Comp USA
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\$11,017,104.44	Best Buy
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\$1,999,730.71	Office Max
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Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L.

Perlmutter & Schuelke, L.L.P. / Austin

Issue: Whether claimant had standing to present the refund claim. Whether the claimant's documentation was sufficient to verify the claimed refund amount. Whether certain transactions are barred by the statute of limitations.

Status: Comptroller's Plea to the Jurisdiction considered 07/20/10. Final Order granting Comptroller's PTJ entered 09/03/10. Notice of Appeal filed 09/23/10. Appellant's brief filed 12/06/10. Appellee's Brief filed 01/18/11. Appellant's Reply Brief filed 02/17/11. Case submitted on oral argument on 04/13/11. Appellant's Notice filed 04/29/11.

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***Target Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004052 AG Case #: 093165934

Filed: 11/30/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$443,218.66	08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether charges for assembly & installation of display items in taxpayer's stores are non-taxable third party installation services.

Status: Order consolidating case into Target Corporation v. Combs, et al., Cause #GN-09-002395, entered 05/28/10.

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***Target Corporation v. Combs, et al.***

Cause Number: D-1-GN-09-002395 AG Case #: 093141778

Filed: 7/27/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,367,689.00	08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether parts for refrigeration and freezing equipment qualify for the manufacturing exemption. Whether services performed on that equipment are exempt. Whether security systems in new stores are non-taxable new construction. Whether display racks and shelving were assembled and installed by non-taxable third party installation services.

Status: Order consolidating case with Target Corp. v. Combs, et al., Cause #GN-09-004052, entered 05/28/10.

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***Tecpetrol Operating, LLC v. Combs, et al.***

Cause Number: D-1-GN-10-002353 AG Case #: 103225868

Filed: 7/9/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$89,888.00	06/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray  
Britt, Steve

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether certain compressors used to move natural gas are subject to the manufacturing exemption.

Status: Answer filed.

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***Texas and Kansas City Cable Partners LP v. Combs, et al.***

Cause Number: D-1-GN-09-001257 AG Case #: 093127587

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,434,607.00	01/01/2003 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin



*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's equipment is exempt as property used in manufacturing. Whether equipment used to insert commercials and other programming into television signals is exempt as equipment used in the production of motion picture, video or audio programming or as the production of broadcasts and television programming. Whether electricity and various services are exempt purchases by Plaintiff. Whether interest and penalty should be waived.

Status: Answer filed.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount	Reporting Period
\$294,000.00	01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A.

DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

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***Texas Waste Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001865 AG Case #: 103201638

Filed: 6/7/2010

Sales and use Tax; Declaratory Judgment, APA

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Tubbs, Laura Denise

Austin

Issue: Plaintiff alleges that the Comptroller failed to provide proper notice of an audit determination and that Plaintiff's request for a redetermination hearing was improperly denied. Plaintiff also seeks a declaration under the UDJA as to the amount of tax due. Plaintiff further alleges that the protest payment requirements of Tax Code §112.051 are violative of both the Texas and U.S. Constitutions.

Status: Answer filed.

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***Time Warner Entertainment & Advance Newhouse v. Combs, et al.***

Cause Number: D-1-GN-09-001982 AG Case #: 093136828

Filed: 6/19/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$5,413,530.44	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service. Whether some equipment is exempt under §151.3185 and various service issues. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-001223 AG Case #: 093121176

Filed: 4/15/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$3,625,383.95	08/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003588 AG Case #: 093158319

Filed: 10/16/2009

Sales and use Tax; Refund

Claim Amount Reporting Period

\$1,777,836.99 (plus statutory interest) 02/31/04 thru 10/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff qualifies for the manufacturing exemption under §151.318 (c) (2). Whether services were exempt under §151.3111.

Status: Answer filed.

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***T-Mobile West Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-000270 AG Case #: 093104230

Filed: 1/27/2009

Sales and use Tax; Protest & Refund

Claim Amount Reporting Period

\$3,964,604.84 06/01/1999 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's purchases of electricity were exempt as electricity used in manufacturing. Whether purchases of tangible personal property were exempt as property used in manufacturing. Whether services performed on that property were exempt under Tex. Tax Code § 151.3111. Whether penalty should be waived.

Status: Notice of Non-suit filed 06/16/11.

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***U.S. Foodservice, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-003215 AG Case #: 093153260

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether electricity used to lower temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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***U.S. Foodservices, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000060 AG Case #: 103174488

Filed: 1/7/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$200,000.00	(Plus penalty and interest)06/01/01 thru 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Petition also asserts manufacturing exemption claims for replacement parts, wrapping & packaging materials and certain work clothes.

Status: Answer filed.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
Villa, Richard D.	Hughes & Luce / Austin

Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***United Space Alliance, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-004310 AG Case #: 103169785

Filed: 12/18/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$22,353.86	August, October and November 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether electricity consumed by the Plaintiff is eligible for the sale for resale exemption.

Status: Answer filed.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975

AG Case #: 042071365

Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$66,543.64	08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Lopez, Diego A.	The Law Offices of Diego A. Lopez / San Antonio
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Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Inactive.

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***Verizon Business Network Services, Inc. v. Compt. Et. Al.***

Cause Number: D-1-GN-07-004221

AG Case #: 072484389

Filed: 12/7/2007

#07-11-00025-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$20,179,336.77	01/01/96 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Bifurcated trial held 01/19/10. Case submitted to court after trial on 01/20/10. Post-

submission briefs submitted on 02/03/10. Court ruled for Defendants on creation of TPP and first use in Texas, and against Defendants on delivery of other TPP (non-custom software). Trial on bifurcation portion on 10/04/10 in favor of Plaintiff. Final Judgment entered 10/29/10. Notice of Appeal filed by Verizon on 12/03/10. Case transferred to Amarillo Court of Appeals on 01/25/11. Appellant's Brief filed 04/04/11; oral argument requested. Appellee's brief filed 05/05/11. Appellant's Reply Brief filed 05/31/11. Appellant's Motion for Oral Argument filed 06/27/11. Appellee's Response filed 06/30/11.

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***W. Robert Brown v. Combs, et al.***

Cause Number: D-1-GN-11-000338 AG Case #: 113248231

Filed: 2/1/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$21,228.61	04/01/03 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Tamborello, Gus G.	Houston
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Issue: Whether sale of an aircraft qualified as an exempt sale of the seller's entire operating assets. Whether the assessment was barred by the 4-year statute of limitations.

Status: Discovery in progress.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Hagenswold, R. Eric	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987

AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and



replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260 AG Case #: 062425574

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 04/03/09. Plaintiff's Amended Motion to Retain filed and granted 08/19/09. Case abated pending Doubletree DTWC v. Combs appeal.

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***Zale Delaware, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000069 AG Case #: 103172771

Filed: 1/8/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$754,000.00	08/01/01 through 07/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether the Comptroller used the proper calculation method for interest applied to tax overpayments. Whether the Plaintiff is entitled to exemption for inventory items temporarily stored in-state. Petition also includes various other sales and use tax issues.

Status: Discovery in progress. Hearing on Defendant's Motion for Partial Summary Judgment set for 02/24/11. Trial previously set for 03/07/11 was passed. Agreed Judgment entered 07/07/11.

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***Zale Delaware, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-003994 AG Case #: 103233847

Filed: 11/12/2010

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,198,935.00      01/01/01 through 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff's methodology for calculating bad debt deduction is proper. Whether credit interest under §111.064 is applicable to a refund generated by a bad debt deduction.

Status: Hearing on Cross Motion for Summary Judgment set for 07/06/11. Trial set for 08/01/11.

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***Zale Delaware, Inc. v. Rylander, et al.***

Cause Number: GN202030

AG Case #: 021640669

Filed: 6/24/2002

Sales Tax; Refund

Claim Amount      Reporting Period

\$333,602.57      08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff's bankruptcy petition and the confirmation of its reorganization plan.

Status: Case consolidated with Zale Delaware, Inc. v. Strayhorn, et al., Cause #GN301725, per court order signed 12/12/07. Trial previously set for 02/22/11 was passed. Agreed Judgment entered 07/07/11.

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***Zale Delaware, Inc. v. Strayhorn, et al.***

Cause Number: GN301725

AG Case #: 031806045

Filed: 5/27/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,170,404.64	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff is entitled to exemption on items of inventory temporarily stored in-state. Whether tax was improperly assessed on services performed outside the state. Whether installation services on counters and software were readily separable from taxable tangible property. Whether the Comptroller should be enjoined from taking offsets pursuant to Plaintiff's bankruptcy plea.

Status: Case consolidated into Zale Delaware, Inc. v. Rylander, et al., Cause #GN202030. Order to consolidate signed 12/12/07. Agreed Judgment entered 07/07/11.

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***Zimmer US, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002096

AG Case #: 093136620

Filed: 6/30/2009

#03-11-00178-CV

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$947,827.00	09/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Hearing on Cross Motions for Summary Judgment set for 02/23/11. Summary Judgment for Defendants entered on 02/24/11. Notice of Appeal filed 03/25/11. Appellant's Brief filed 05/31/11. Appellee's brief filed 6/29/11.

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## Insurance Tax

### ***Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.***

Cause Number: D-1-GN-11-001584 AG Case #: 113269278

Filed: 5/26/2011

Gross Premium & Maintenance Tax; Protest

Claim Amount	Reporting Period
\$1,157,588.33	01/01/2006 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pauerstein, Jonathan D.	Rosenthal Pauerstein Sandoloski Agather LLP / San Antonio
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Bergman, Alia M.

Issue: Whether premium payments received by Defendants should be characterized as reinsurance premiums.

Status: Answer filed.

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### ***Fidelity National Title Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-10-001722 AG Case #: 103198883

Filed: 5/27/2010

Gross Premium Tax; Protest; UDJA

Claim Amount	Reporting Period
\$954,557.00	2009 to 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Burgess, Linda	Winstead P.C. / Austin
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Issue: Whether imposition of a premium tax on the entire amount of a title insurance premium is violative of:

i) the equal protection clauses of the U.S. and Texas Constitutions and

ii) the equal and uniform taxation provision of the Texas Constitution

Status: Answer filed.

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***Fireman's Fund Insurance Company of Ohio v. Rylander, et al.***

Cause Number: GN101899

AG Case #: 011464476

Filed: 6/20/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$439,074.12      1992 - 1998

Counsel Associated With This Case:

*Assistant Attorney General*

Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

Alexander, Richard

Richard W. Alexander / Austin

Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement. Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Revised Scheduling Order filed 02/02/10. Scheduling Order suspended by agreement of the parties.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271

AG Case #: 991226739

Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$416,462.73      1993 - 1997

\$214,893.74      1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

White, Raymond E.

McGinnis, Lochridge & Kilgore, LLP / Austin

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Trial set for 09/12/11.

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## Other Taxes

### ***35 Bar & Grill, LLC, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Answer filed.

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### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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### ***Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount Reporting Period

\$21,065.00 Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Bassam Jaber Hantouli v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period

\$352,819.92 Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Discovery in progress. Non-Jury trial set for 09/26/11.

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***Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003385 AG Case #: 082529652

Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$70,620.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Benelux Corp., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002489 AG Case #: 082520487

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$91,240.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.***

Cause Number: D-1-GN-07-004179 AG Case #: 072480643

Filed: 12/7/2007

#03-08-00213-CV

#09-0481

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
	2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Whitehead, G. Stewart              Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition for Review with the Texas Supreme Court on 06/11/09. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09. Case submitted on oral argument on 03/25/10.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483    AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$482,440.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.              Monshaugen & Van Huff, P.C. / Houston  
Van Huff, Albert T.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: 30861

AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$180.00	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Mather, Melissa	OAG Taxation / Austin
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*Opposing Counsel*

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Clevenger, Ty	Attorney at Law / Bryan
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Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Answer filed. Plaintiff transferred to Travis County.

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***El Paso Entertainment, Inc. dba v. Compt., et al.***

Cause Number: D-1-GN-08-002548 AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,767.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Enterprise Operating Co., Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002575 AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$76,780.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Serper, Lauren M.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

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***FW, Inc. and S & S Bros., Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002617 AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$23,685.00	FW, Inc.
\$15,881.25	S&S Bros, Inc.

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Deegear III, James O.
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002522 AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$11,055.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***I Gotcha, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002546 AG Case #: 082520503

Filed: 7/17/2008

Other Tax; Protest

Claim Amount Reporting Period

\$79,195.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period

\$20,409.70 09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Answer filed.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$8,430.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Karpod, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002521 AG Case #: 082520479

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$67,580.25      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin



*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003280 AG Case #: 082530288

Filed: 9/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$14,115.00 Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***MC/VC, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount Reporting Period

\$9,516.55 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount      Reporting Period

\$0.00      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Aterno, Tony

OAG Taxation / Austin

*Opposing Counsel*

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Mattox, Jim

Attorney at Law / Paris

Lasley, Lowell

Mosher, Michael D.

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Inactive.

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***North By East, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002624      AG Case #: 082520495

Filed: 7/21/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$37,710.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D.

Hopkins & Williams, PLLC / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Price & Company v. Combs, et al.***

Cause Number: D-1-GN-09-002439      AG Case #: 093144020

Filed: 7/30/2009

Cigarette and Tobacco Tax; Protest

Claim Amount	Reporting Period
\$150,687.46	01/01/2003 through 08/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether the Comptroller improperly assessed tax on cigarettes that were taxed and sold in Louisiana.

Status: Answer filed. Disclosures filed.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104

AG Case #: 052245941

Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$208,428.70	05/01/02 - 05/31/02 (Diesel)
	01/01/02 - 04/30/02 (Gasoline)
	03/01/02 - 04/30/02 (Diesel)
	05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Grissom, Donald H.	Grissom & Thompson / Austin
Thompson, III, William W.	

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Trial previously set for 05/16/11 has been passed.

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***RPM Entertainment, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002622 AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$69,909.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens & Associates / Austin

Seay, Michael B.

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Answer filed.

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***Savvy, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002520 AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$159,595.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***SIFA Investment Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004097 AG Case #: 083091199

Filed: 11/12/2008

Tax;

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Canfield, Gregory W.              San Antonio

Issue:

Status: Answer filed.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301    AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$64,485.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V.                      Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.***

Cause Number: GN503318              AG Case #: 052216702

Filed: 9/14/2005

Inheritance Tax; Protest

Claim Amount      Reporting Period

\$1,293,469.96      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Wheat, David  
Hill, Frank

Thompson & Knight, L.L.P. / Dallas  
Thompson & Knight, L.L.P. / Austin

Issue: Whether Plaintiff's partnership interest located out-of-state is intangible personal property taxable in Texas. Plaintiff claims double taxation.

Status: Discovery in progress.

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***Texas Cabaret, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002490 AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$49,795.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$102,535.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The King Lounge, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-003793 AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$138,875.00	Apr. - Sept. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Shells, T. Craig	Richardson
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439 AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$60,890.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Travis Co., Texas, Nelda Wells Spears, et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-002211 AG Case #: 082531500

Filed: 9/16/2008

Motor Vehicle Tax; Refund

Claim Amount	Reporting Period
\$26,105.98	Jan. 1, 2001 through Mar. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Martin, Gary Duncan	Austin
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Issue: Whether the Comptroller may refuse to credit the county for checks used to pay motor vehicle taxes that were returned for insufficient funds more than four years ago.

Status: Answer filed.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262 AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest

Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Inactive.

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## Closed Cases

### ***Aetna Life Ins. Co. v. Compt., et al.***

Cause Number: D-1-GN-08-002422 AG Case #: 082519794

Filed: 7/10/2008

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,228,278.73      02/01/97 thru 01/31/01 & 02/01/01 thru 6/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Osterloh, Curtis J.

Issue: Whether Aetna received data processing services. If so, whether services were properly allocated to Texas.

Status: Agreed Judgment entered 12/21/10.

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### ***Alcon Research, Ltd., et al. v. Combs, et al.***

Cause Number: D-1-GN-10-000065 AG Case #: 103172755

Filed: 1/8/2010

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$2,574,603.00      07/01/99 thru 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether taxpayer's amended returns were in compliance with, and subject to, a

percentage-based reporting agreement.

Status: Agreed Judgment entered 04/26/11.

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***Anadarko E&P Co., L.P. vs Combs, et al.***

Cause Number: D-1-GN-07003385 AG Case #: 072475932

Filed: 10/3/2007

Franchise Tax; Protest & Refund

Claim Amount Reporting Period

\$4,518,016.85 1999-2001 Texas Franchise Tax Report

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller correctly calculated the value of impairment of it's long-lived assets under the applicable principles for successful efforts accounting.

Status: Agreed Judgment entered 02/28/11.

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***Anadarko OGC Company v. Combs, et al.***

Cause Number: D-1-GN-09-004036 AG Case #: 093165967

Filed: 11/25/2009

Franchise Tax; Refund

Claim Amount Reporting Period

\$2,019.43 \$5,387,747.55/\$1,013,096.12 (1997 through 2002)

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly calculated the value of impairment of taxpayer's long-lived assets under the applicable principles for successful efforts accounting. Whether the taxpayer is entitled to use an alternate method of computing accumulated depreciation.

Status: Agreed Judgment entered 02/28/11.

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***Anadarko Petroleum Corp. v. Combs, et al.***

Cause Number: D-1-GN-10-000501 AG Case #: 103181905

Filed: 2/17/2010

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,726,326.08      (plus principal & interest) 01/01/00 thru 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether the Comptroller correctly calculated the value of impairment of taxpayer's long-lived assets under the applicable principles for successful efforts accounting.

Status: Agreed Judgment entered 02/28/11.

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***Anadarko Petroleum Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-000670 AG Case #: 072441751

Filed: 3/6/2007

Franchise Tax; Refund

Claim Amount      Reporting Period

\$3,100,129.00      1995 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff may include proved reserves when computing impairment for long-lived assets. Whether Plaintiff is entitled to use an alternative GAAP method of computing accumulated depreciation and net pension liabilities. Whether Plaintiff is entitled to a franchise tax credit for tax paid on property used in manufacturing. Plaintiff requests that penalty and interest be waived.

Status: Agreed Judgment entered 02/28/11.

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***Anh Thai Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-003086 AG Case #: 082526096

Filed: 8/26/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$158,443.19	April 1, 2001 through Dec. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Buck, E. Rhett	Houston
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Issue: Whether percentages of sales were properly computed. Whether Plaintiff had sufficient records to perform audit without relying on standards of AP92.

Status: Case Dismissed for Want of Prosecution on 03/25/11.

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***AXA Equitable Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501095

AG Case #: 052135712

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$57,166.00	2004
\$28,583.00	2005
\$849.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Moore, Steven D.	Jackson Walker, L.L.P / Austin
Werkenthin, Fred B.	Jackson Walker, L.L.P. / Austin
Small, Edward C.	
Fitzgerald, Pat	

Issue: Whether dividends retained and applied to reduce premiums should be included in gross

premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745. Notice of Nonsuit filed 12/20/10.

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***Capitol Aggregates, Ltd. v. Compt., et al.***

Cause Number: D-1-GN-08-003096 AG Case #: 082526229

Filed: 8/26/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$563,053.71	March 1, 1999 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether Plaintiff's coal mill qualifies for the manufacturing exemption. Whether real property repair and other services are exempt transactions among affiliated entities.

Status: Agreed Judgment entered 12/22/10.

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***Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.***

Cause Number: GN100332

AG Case #: 011409646

Filed: 2/1/2001

Franchise Tax; Protest

Claim Amount	Reporting Period
\$300,772.95	1988 - 1994
\$204,616.25	1988 - 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether inclusion of access charges in Texas' gross receipts violates Comptroller rules on franchise tax treatment of interstate telephone receipts. Whether inclusion of the charges violates equal protection.

Status: Nonsuit filed 05/16/11.

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***Chevron USA Holdings v. Combs, et al.***

Cause Number: D-1-GN-10-000084 AG Case #: 103172664

Filed: 1/8/2010

Sales and use Tax; Protest & Refund

Claim Amount      Reporting Period

\$7,666,889.93      01/01/91 through 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Plaintiff's suit raises approximately 30 sales and use tax issues in relation to its oil and gas production operations. Claims include environmental services, credit interest, new construction, and various manufacturing exemption claims.

Status: Agreed Judgment entered 03/04/11.

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***Chevron USA Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-000748 AG Case #: 093110088

Filed: 3/6/2009

Franchise Tax; Refund

Claim Amount      Reporting Period

01/01/97 through 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff may carry forward its impairment losses and exclude abandonment costs in computing its taxable capital.

Status: Agreed Judgment entered 06/03/11.

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***Clear Lake City Community Association, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004281 AG Case #: 062425582

Filed: 11/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,936.63	08/01/00 - 10/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Knobelsdorf II, John C. Attorney at Law / Houston

Issue: Whether Plaintiff, as an exempt organization, is an exempt consumer of taxable real property services and not a seller of such services. Whether waste hauling service provided to association homeowners and paid for by Plaintiff is exempt from sales tax.

Status: Agreed Judgment entered 03/07/11.

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***Crown Central LLC, successor in interest to Crown Central Petroleum Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-000570 AG Case #: 113252308

Filed: 2/24/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$26,296.29	01/01/04-07/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff owes sales tax on scaffolding. Whether scaffolding charges were readily separable from charges for the lease or rental of property.

Status: Notice of Nonsuit filed 04/07/11.

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***Crown Central Petroleum Corporation v. Strayhorn, et al.***

Cause Number: GN504190

AG Case #: 052260197

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$136,903.16	12/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether charges of contractors for erecting, moving and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property. Whether certain work performed by contractors is new construction under a lump sum contract and thus not taxable.

Status: Notice of Nonsuit filed 04/07/11.

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***Crown Central, L.L.C., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-000509

AG Case #: 093107126

Filed: 2/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$159,825.70	01/01/00 to 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff owes sales tax on scaffolding. Whether scaffolding charges were readily separable from charges for the lease or rental of property.

Status: Notice of Nonsuit filed 04/07/11.

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***Dick Roberts Corp., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-002917 AG Case #: 093150027

Filed: 9/2/2009

Sales and use Tax; Declaratory Relief

Claim Amount	Reporting Period
\$451,000.00	10/01/1997 through 06/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
Ray, Doug W.	

Issue: Whether the 50% penalty under §111.061 was properly applied to the underlying assessment. Whether the assessment of interest should be waived. Whether the Comptroller properly denied insolvency relief under §111.102.

Status: Agreed Judgment entered 03/11/10.

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***El Paso Electric Co. v. Combs, et al.***

Cause Number: D-1-GN-09-001489 AG Case #: 093130326  
#03-10-00443-CV

Filed: 5/11/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$707,570.46	08/01/1995 through 06/30/1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether certain items were exempt under §151.318 (g) prior to Oct. 1, 1997. Whether a cross arm arrestor was exempt under §151.318 (a)(4) after Oct. 1, 1997.

Status: Trial held 03/29/10. Judgment for El Paso on 04/29/10. The State filed a Notice of

Appeal on 07/26/10. Appellant's Motion to Dismiss filed 11/09/10. Memorandum Opinion issued 12/01/10, granting the motion to dismiss the appeal. Mandate issued 02/22/11.

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***El Paso Natural Gas Company v. Sharp***

Cause Number: 91-6309

AG Case #: 9178237

Filed: 5/6/1991

Gas Production Tax; Declaratory Judgment

Claim Amount      Reporting Period

\$3,054,480.60      01/01/87 - 12/31/87

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: Agreed Order of Nonsuit entered 05/16/11.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501139

AG Case #: 052132818

Filed: 4/11/2005

#03-08-00561-CV

#10-0629

Sales Tax; Refund

Claim Amount      Reporting Period

\$22,847,194.00      01/01/95 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Answer filed. Plaintiff filed Motion for Partial Summary Judgment 01/25/08. Motion set for 07/02/08. Defendants filed Cross-motion for Summary Judgment 06/03/08. Additional Response to Plaintiff's Motion for Partial Summary Judgment filed by Defendant on 06/24/08. Plaintiff's Reply to Defendants' MSJ filed 06/24/08. Summary judgment motions heard 07/02/08. Defendants' motion granted and Plaintiff's motion denied 08/18/08. Plaintiff filed notice of appeal on 09/10/08. Appellant's Motion for Extension of Time to File brief filed and granted 11/05/08. Brief filed 12/08/08. Appellee's Motion for Extension of Time to File Brief filed and granted 12/18/08. Appellee's Brief filed 02/27/09; oral argument requested. Appellant's reply brief filed 04/02/09. Submitted on oral argument on 11/18/09. Memorandum Opinion issued 06/03/10, affirming the district court's judgment. Appellant's Motion for rehearing overruled 07/02/10. Petition for review filed 08/16/10. Conditional Waiver of Response submitted 08/25/10. Petition for Review denied 10/01/10. Petitioner's Motion for Rehearing filed 11/15/10. Amicus Curiae brief received 11/30/10. Motion for Rehearing denied 01/14/11. Mandate issued 03/31/11.

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***GTE Southwest, Inc. vs Compt., et al.***

Cause Number: D-1-GN-08-001419 AG Case #: 082507401

Filed: 4/24/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$694,870.88	May-June 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff may recover additional interest and payment discounts on taxes for which it provided a refund assignment.

Status: Agreed Judgment entered 01/06/11.

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***Home & Garden Party, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-10-000051 AG Case #: 103174561

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$313,133.93	07/01/04 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Hobbs, Mark C.	Beard Kultgen Brophy Bostwick & Dickson, L.L.P. / Waco
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Issue: Whether packaging materials and supplies used in the manufacturing of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Agreed Order of Dismissal entered 05/17/11.

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***Home & Garden Party, Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001392 AG Case #: 062311402  
#03-09-00673-CV

Filed: 4/21/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$791,634.49	01/01/98 - 05/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Brophy, Jr., Richard E.	Beard Kultgen Brophy Bostwick & Dickson, L.L.P. / Waco
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Hobbs, Mark C.

Issue: Whether packaging materials and supplies used in the repackaging of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Plaintiff's Motion for Summary Judgment held 08/31/09. Plaintiff's Motion for

Summary Judgment granted 09/22/09. Judgment signed 11/04/09. Notice of Appeal filed 11/24/09. Clerk's Record filed 01/14/10. Appellant's brief filed 02/12/10. Appellee's brief filed 03/16/10. Appellant's Reply Brief filed 04/01/10. Appellee's Motion to Appear Pro-Hac Vice filed 08/18/10; granted 08/24/10. Case submitted on oral argument on 09/29/10. Opinion issued 11/03/10, reversing trial court decision and remanding for further proceedings. Mandate issued 01/19/11. Agreed Order of Dismissal entered 05/17/11.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-03-000575 AG Case #: 031759657  
#03-09-00157-CV  
#10-0637

Filed: 2/21/2003

**Sales Tax; Refund**

Claim Amount	Reporting Period
\$6,726.00	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$591,086.00	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether post-mix machines qualify for manufacturing tax exemption. Whether some of the machines also qualify for the sale for resale exemption, because Plaintiff received consideration even if not valued in money.

Status: Plaintiffs filed a Motion for Summary Judgment 04/23/05. Discovery in progress. Court ruled in favor of Defendants Motion for Summary Judgment. Plaintiffs filed Notice of Appeal on 03/26/09. Appellant's brief filed 06/05/09. Appellee's Motion for Extension of Time to File Brief filed 06/26/09; granted 06/29/09. Second Motion for Extension of Time to File Appellee's brief filed 08/05/09; granted 08/10/09. Brief filed 08/06/09. Appellant's Motion for Extension of Time to File Brief filed 08/25/09; granted 08/27/09. Appellant's Reply Brief filed 09/15/09. State's Reply Brief filed 10/06/09. Appellee's Reply Brief filed 10/19/09. Case submitted on oral argument on 02/10/10. Opinion issued 04/15/10, affirming the judgment of the district court. Appellant's Motion for Rehearing denied 07/09/10. Petition

for Review filed in the Tx. Supreme Court on 08/17/10. Petition denied 12/17/10. Mandate issued 02/18/11.

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***Lyondell Chemical Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003194 AG Case #: 093151751

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,600,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Duggins Wren Mann & Romero, LLP / Austin
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Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments. Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt as a non-taxable service, or taxable as rental of tangible personal property.

Status: Notice of Nonsuit entered 05/20/11.

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***Metropolitan Life Insurance Company, et al. v. Combs, et al.***

Cause Number: 484,745

AG Case #: 90304512

Filed: 5/24/1990

#03-06-00446-CV

#10-0038

Gross Premium Tax; Protest

Claim Amount	Reporting Period
\$10,817,043.00	1989 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Moore, Steven D.	Jackson Walker, L.L.P. / Austin
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Werkenthin, Fred B.	Jackson Walker, L.L.P. / Austin
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Harrison, Breck  
Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06. Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Submitted on Oral Argument 02/14/07. Opinion issued 10/09/09, reversing the trial court's judgment and rendering summary judgment in favor of the Comptroller. Appellee's Motion for Rehearing filed 10/26/09; overruled 12/03/09. Petition for Review filed in the Supreme Court on 01/19/10. Response waived 02/02/10. Response requested by Supreme Court on 04/06/10. Response to petition filed 05/05/10. Petitioner's Reply filed 05/20/10. Briefing on the merits requested 05/27/10. Petitioner's brief filed 06/28/10. Respondent's brief filed 07/28/10. Petitioner's reply brief filed 08/17/10. Petition for Review denied 10/01/10. Motion for Rehearing filed 10/14/10. Motion for Rehearing denied 11/19/10. Mandate issued by Court of Appeals on 12/31/10.

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***New York Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501094

AG Case #: 052130697

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$105,822.00	2004
\$52,911.00	2005
\$1,572.00	2004 (Maintenance Tax)

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Moore, Steven D.	Jackson Walker, L.L.P. / Austin
Werkenthin, Fred B.	Jackson Walker, L.L.P. / Austin
Small, Edward C.	
Fitzgerald, Pat	

Issue: Whether dividends retained and applied to reduce premiums be included in gross

premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745. Notice of Nonsuit filed on 12/20/10.

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***Prudential Insurance Company, The v. Strayhorn, et al.***

Cause Number: GN501093

AG Case #: 052137189

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$230,578.00	2004
\$115,289.00	2005
\$3,426.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Moore, Steven D.

Jackson Walker, L.L.P. / Austin

Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Small, Edward C.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745. Notice of Nonsuit filed on 12/20/10.

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***Southwestern Bell Telephone Company v. Rylander, et al.***

Cause Number: GN204559

AG Case #: 031730666

Filed: 12/20/2002

#03-07-00142-CV

#07-07-00172-CV

#09-0128

Franchise Tax; Protest

Claim Amount	Reporting Period
\$25,163,579.92	1996 - 1999; 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether local loop access charges are Texas receipts for franchise tax purposes.  
Whether treating the revenues as Texas receipts violates the Comptroller's Rule on interstate calls and the Due Process, Equal Protection and Commerce Clauses of the Constitution.  
Whether other charges related to message services are Texas receipts.

Status: First Amended Original Petition adding 2001 final report filed. Cross-MSJ hearing held 02/14/07. On 02/16/07 Defendants' MSJ granted; Plaintiff's denied. Notice of Appeal filed 03/08/07. Clerk's Record filed 03/21/07. Appellant's brief filed 04/20/07. Case transferred to Seventh Court of Appeals 05/01/07. Appellee's amended brief filed 06/27/07. Appellants' reply brief filed 07/23/07. Appellees' Pre-submission filed 05/27/08. Case submitted on oral argument to the Amarillo COA sitting in Austin on 06/09/08. Opinion issued affirming trial court's judgment 10/28/08. Appellant's Motion for Extension of Time to File Motion for Rehearing filed 11/07/08; granted 11/12/08. Motion for Rehearing filed 11/26/08; overruled 12/30/08. Southwestern Bell's Petition for Review filed in the Texas Supreme Court on 02/12/09. Waiver of response filed 03/03/09. Response to Petition for Review requested 04/10/09. Motion for Extension of Time to File Response filed 04/16/09; granted 04/17/09. Response filed 06/10/09. Briefing on the merits requested 08/21/09. Petitioner's brief on the merits filed 10/21/09. Respondent's brief on the merits filed 01/15/10. Petitioner's Reply Brief filed 03/04/10. Petition for Review denied 10/01/10. Petitioner's Motion for Rehearing filed 12/17/10; denied 01/21/11. Mandate issued 02/08/11.

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***Spacenet Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002437 AG Case #: 062380332

Filed: 7/3/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$650,940.41	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff owes no tax because it accepted resale certificates in good faith.  
Whether all penalty and interest should be waived.

Status: Agreed Judgment entered 01/04/11.

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***Target Corporation v. Strayhorn, et al.***

Cause Number: GN502440

AG Case #: 052184538

Filed: 7/14/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,242.98	02/01/96 - 07/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether charges for labor under separated contracts and charges under lump sum contracts constitute non-taxable new construction. Whether charges for assembly and installation of display items in retail stores are non-taxable third party installation services. Whether components purchased outside the state and used outside the state to construct other items, including assembly labor charges, are taxable. Whether installation charges for purchases of tangible personal property are non-taxable as separable charges.

Status: Agreed Judgment entered 05/19/10.

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***Texaco, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001386 AG Case #: 093123461

Filed: 4/30/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,136,124.00	01/01/1992 through 12/31/1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff seeks a reduction in franchise tax for various reasons including abandonment costs and impairment of assets, intercompany expense reimbursements, alternative depreciation, and manufacturing credits.

Status: Agreed Judgment entered 06/03/11.

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***Tyler Holding Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004608 AG Case #: 062430350

Filed: 12/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$47,129.21	10/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of tangible personal property by Plaintiff's predecessor were exempt from sales and use tax under the manufacturing exemption. Whether charges of contractors for erecting, dismantling and moving scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Notice of Nonsuit filed 04/07/11.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401174

AG Case #: 041954488

Filed: 4/14/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$975,000.00	07/01/99 - 07/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Agreed Judgment entered 10/15/10.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501793

AG Case #: 052151891

Filed: 5/17/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$881,264.71	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Agreed Judgment entered 10/15/10.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504467

AG Case #: 062267356

Filed: 12/16/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$297,739.30	04/01/03 - 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether security services provided to Plaintiff in connection with services to the federal government qualify for the sale for resale exemption. Whether tax on tangible personal property should be refunded pursuant to the Raytheon case. Whether electricity used to produce software qualifies for the manufacturing and processing exemption. Whether certain software maintenance is a non-taxable service.

Status: Agreed Judgment entered 10/15/10.

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